

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

HAROLD CAMPBELL, JR.,)	
)	
Plaintiff,)	
)	
v.)	No. CIV-13-384-FHS-SPS
)	
CAROLYN W. COLVIN ¹ , Commissioner)	
Social Security Administration)	
)	
Defendant.)	

OPINION AND ORDER

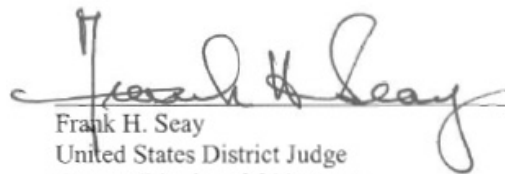
On March 4, 2014, the United States Magistrate Judge for this District filed Findings and Recommendations in this case. The Findings and Recommendations suggested that the court dismiss this case without prejudice for failure to follow court orders and to pursue his case. An objection was filed on March 25, 2014, by plaintiff's new counsel requesting this court to reject the Magistrate's recommendations and asks the court to grant a permissive extension of time for his new counsel to obtain service on the defendant. Defendant did not file an objection to this request.

¹The Court has been informed by Defendant that on February 14, 2013, Carolyn W. Colvin became the Acting Commissioner of Social Security. Pursuant to Rule 25 (d) of the Federal Rules of Civil Procedure, Carolyn W. Colvin is automatically substituted for Michael J. Asture as the defendant in this action. Thus, this suit will proceed with this substitution in effect. See 42 U.S.C. Sec. 405 (g) ("Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Commissioner of Social Security or any vacancy in such office.")

The Findings and Recommendations suggest that the case be dismissed for plaintiff's failure to timely serve defendant and pursue his case. However, this court grants a permissive extension of time. Plaintiff has now secured counsel and should be able to actively pursue his case. In granting this permissive extension of time, the court can consider plaintiff's *pro se* status and the complex nature of the requirement of Fed. R. Civ. P. 4(i). Further, "protecting *pro se* plaintiffs from consequences of confusion or delay attending the resolution of an *in forma pauperis* petition." Espinoza v. United States of America, 52 F.3d 838, 842 & n.8 (10th Cir. 1995) is also a pertinent factor. The facts seems to reveal that plaintiff was confused or unable to complete the process to get defendant served. Considering all the factors of this case, the court finds a permissive extension of time is appropriate in this case.

Upon consideration of the entire record and the issues herein, this Court finds and orders that the Findings and Recommendations of the United States Magistrate Judge be **REJECTED** and the court grants the permissive extension of time requested by plaintiff. The court gives the plaintiff fourteen (14) days from the date of this order to serve the defendant. In addition, the court also grants the Motion for Leave of Court to Issue Summons (Doc. 22).

It is so ordered this 15th day of April, 2014.


Frank H. Seay
United States District Judge
Eastern District of Oklahoma